

FILED
JAMES DOMINI
CLERK

United States District Court

for

Southern District of Ohio

Petition for Warrant or Summons for Offender Under Supervision

SEP 29 AM 11:30

U.S. DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WEST DAY CINCINNATIName of Offender: **Ricardo Lee**Case Number: **1:02CR00077**Name of Sentencing Judicial Officer: **The Honorable Herman J. Weber**
United States Senior District JudgeDate of Original Sentence: **September 26, 2002**Original Offense: **Felon in Possession of a Firearm, in violation of 18 USC §§ 922(g)(1) and 924(a)(2),
a class C felony.**Original Sentence: **18 months BOP confinement, 3 years supervised release**Type of Supervision: **Supervised Release**Date Supervision Commenced: **November 30, 2003**Assistant U.S. Attorney: **Wende C. Cross, esq.**Defense Attorney: **Richard Smith-Monahan, esq.**

PETITIONING THE COURT

- ☒ To issue a warrant
☐ To issue an Order to Appear and Show Cause
☐ To grant an exception to revocation without a hearing.

Violation NumberNature of Noncompliance

#1

Standard Condition: You shall not commit another Federal, state, or local crime and shall not illegally possess a controlled substance;

1) On May 11, 2004, Lee was convicted of Disorderly Conduct in Hamilton County, Ohio Municipal Court. Lee was sentenced to credit for one day served, and ordered to complete 40 hours of community service. The facts are the police responded to the residence of Theresa Dudley at approximately 4:00am as a result of a domestic disturbance. The police found Lee outside of the building yelling to get her attention in her second floor apartment. When Lee saw the police, he fled by foot, but was apprehended.

2) On May 6, 2005, Lee was again convicted of Disorderly Conduct in Hamilton County, Ohio Municipal Court. Lee was sentenced to pay a fine of \$50 and court costs, but was not able to pay the fine, so he served one day in jail in lieu of the fine. The facts are Lee called the police after hearing a gun shot outside of his apartment. When the police responded, Lee was able to identify the person who fired the shot from a shotgun, and where the shotgun was located. As a result, an arrest was made. While in police custody, the arrestee threatened Lee, and in police presence, Lee responded by verbally agitating the arrestee by responding to the threat.

3) On July 12, 2005, Lee was convicted a reduced charge of Disorderly

Conduct in Hamilton County, Ohio Municipal Court. Lee was originally arrested on the charge of Domestic Violence. Lee was sentenced to 30 days confinement. The facts are, after being told by this officer to have no contact with Theresa Dudley, Lee went to Dudley's residence on July 4, 2005, and was verbally threatening to Dudley and her family.

4) On September 22, 2005, Lee was convicted of Theft in Hamilton County, Ohio Municipal Court. Lee was sentenced to 30 days confinement. The facts are, on September 9, 2005, Lee went into a Kroger store and attempted to leave the store with a cart full of groceries without paying for them. He was apprehended at the scene.

5) On September 14, 2005, Lee was arrested on the charge of Domestic Violence by the Cincinnati, Ohio Police. The case is currently pending in Hamilton County Municipal Court. The complaint alleges, on September 10, 2005, Lee was at Theresa Dudley's residence, and got into a verbal altercation with Dudley, then drug Dudley down three flights of steps while their child was in her arms. A temporary protection order was granted to Dudley for Lee to have no contact with her.

6) On September 20, 2005, Lee was arrested by the Cincinnati, Ohio Police for a Violation of a Protection Order and Menacing/Stalking. The charges are currently pending in Hamilton County, Municipal Court. The Complaints allege, on September 20, 2005, Lee was outside Dudley's place of employment while a protection order against Lee was in place for him to stay away from Dudley, which is causing Dudley mental distress.

#2

Condition #11: You shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;

1) On July 4, 2005, Lee was arrested by the Cincinnati, Ohio Police on the charge of Domestic Violence, and failed to notify this officer of the contact with law enforcement within three days as required.

2) On September 7, 2005, Lee was arrested by the Cincinnati, Ohio Police on the charge of Theft, and failed to notify this officer of the contact with law enforcement within three days as required.

3) On September 14, 2005, Lee was arrested by the Cincinnati, Ohio Police on the charge of Domestic Violence, and failed to notify this officer within three days as required.

4) On September 20, 2005, Lee was arrested by the Cincinnati, Ohio Police on the charge of Violation of a Protection Order, and failed to notify this officer of the contact with law enforcement within three days as required.

#3

Condition #7: You shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician;

On August 26, 2004, November 5, 2004, and August 8, 2005, Lee submitted urine specimens for drug testing which returned positive for usage of cocaine.

#4

Condition #3: You shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;

On March 31, 2005, after Lee was arrested for Domestic Violence (which was later dismissed), this officer specifically instructed Lee to have no contact with Theresa Dudley due to the problems with the relationship. Lee stated he understood the instruction and agreed to stay away from her.

On July 4, 2005, Lee was arrested as a result of having contact with Theresa Dudley, which was against the specific instruction not to have any contact with her.

On August 8, 2005, this officer again had a lengthy discussion with Lee about staying away from Theresa Dudley, and again gave the same instruction to stay away from Dudley. Furthermore, on August 15, 2005, a behavior contract was established for and signed by Lee, which included the instruction of not having any contact with Theresa Dudley or her family.

On August 18, 2005, Dudley contacted this officer and stated Lee had contact with her at her residence on August 17, 2005. This officer confronted Lee about the contact with Dudley on August 22, 2005, and Lee admitted to having contact with her. Lee then went to Dudley's place of employment later in the evening on August 22, 2005 to attempt to have contact with Dudley, which did not occur.

Finally, on September 14, 2005, Lee was arrested by the Cincinnati Police on the charge of Domestic Violence involving Theresa Dudley, and again was arrested on September 20, 2005 for a violation of a protection order when he went to Dudley's place of employment attempting to have contact with her.

#5

Condition #2: You shall report to the probation officer as directed by the Court or probation officer, and shall submit a truthful and complete written report within the first five days of each month;

Lee failed to submit monthly supervision reports by the fifth of each month as required for the months of February and August 2005.

#6

Special condition # 1--The defendant shall participate in a program approved in advance by the United States Probation Office for substance abuse, which program may include testing to determine whether the defendant has reverted to the use of drug or alcohol.

Since the inception of the supervision, Lee missed 23 scheduled drug tests while in treatment. He failed to submit urine specimens two times in December 2003, one time in January 2004, one time in April 2004, one time in May 2004, two times in June 2004, two times in July 2004, four times in August 2004, one time in September 2004 and October 2004, and four times in November and December 2004.

It should be noted, 18 USC § 3583(g)(3) requires revocation for failing to comply with drug testing requirements.

#7

Special Condition # 2—The defendant shall participate in and successfully complete mental health treatment as directed by the probation officer.

Since the inception of the supervision, Lee has been in mental health treatment with a therapist, and under the care of a psychiatrist for mental health medications. Currently, Lee has three different prescriptions for psychiatric medications.

On August 30, 2005, this officer had Lee bring in his psychiatric medication into the U.S. Probation Office. This officer looked at the dates of the prescriptions, and counted the tablets for each prescription to see if Lee was taking the medication as prescribed. The count clearly indicated Lee was not taking the medication as prescribed by the psychiatrist. The issue was a constant issue throughout the term of supervision. Therefore, Lee was not in compliance with his treatment requirements by failing to take the medications as prescribed.

U.S. Probation Officer Recommendation:

Lee has been convicted of a number of misdemeanor charges, despite attempts to work with Lee and his mental health issues. He is not taking his psychiatric medication despite effort to the contrary, which is coupled with cocaine usage. Lee refuses to follow the instructions of this officer with regard to staying away from Theresa Dudley, and definitely poses a threat to her under the circumstances mentioned above. In general, Lee is out of control. Therefore, this officer is respectfully recommending a warrant be issued for supervised release violation, and the term of supervised release be revoked.

The term of supervision should be

- ☒ Revoked.
- ☐ Extended for years, for a total term of years.
- ☐ Continued based upon the exception to revocation under 18 USC 3563(e) or 3583(d)
- ☐ The conditions of supervision should be modified as follows:

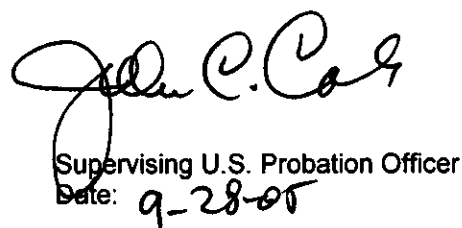
I declare under penalty of perjury that
the foregoing is true and correct.

Approved,

Executed on September 28, 2005

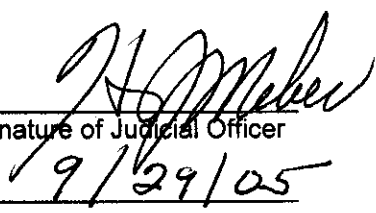
by


Robert C. Frommeyer Jr.
U.S. Probation Officer


Supervising U.S. Probation Officer
Date: 9-28-05

THE COURT ORDERS:

- ☐ No Action
- ☒ The Court finds that there is probable cause to believe the defendant has violated the conditions of his/her probation/supervised release and orders the Issuance of a Warrant for his/her arrest.
- ☐ The Issuance of an Order to Appear and Show Cause
- ☐ The Court finds the defendant can benefit from continued substance abuse treatment and grants an exception to revocation. The supervision term of the defendant is continued under all original terms and conditions.
- ☐ Other



Signature of Judicial Officer

9/29/05

Date

UNITED STATES DISTRICT COURT

SOUTHERN

District of

OHIO

UNITED STATES OF AMERICA

V.

RICARDO LEE

Case Number: 1:02CR00077

WARRANT FOR ARREST

To: The United States Marshal
and any Authorized United States Officer

YOU ARE HEREBY COMMANDED to arrest RICARDO LEE

Name

and bring him or her forthwith to the nearest magistrate judge to answer a(n)

- ☐ Indictment ☐ Information ☐ Complaint ☐ Order of court ☐ Probation Violation Petition ☒ Supervised Release Violation Petition ☐ Violation Notice

charging him or her with (brief description of offense)

(SEE ATTACHED)

in violation of Title _____ United States Code, Section(s) _____

JAMES BONINI
Name of Issuing Officer

CLERK
Title of Issuing Officer

[Signature]
Signature of Issuing Officer

SEPTEMBER 29, 2005 CINCINNATI, OHIO
Date and Location

This warrant was received and executed with the arrest of the above-named defendant at

RETURN

DATE RECEIVED

DATE OF ARREST

NAME AND TITLE OF ARRESTING OFFICER

SIGNATURE OF ARRESTING OFFICER

THE FOLLOWING IS FURNISHED FOR INFORMATION ONLY:

DEFENDANT'S NAME: _____

ALIAS: _____

LAST KNOWN RESIDENCE: _____

LAST KNOWN EMPLOYMENT: _____

PLACE OF BIRTH: _____

DATE OF BIRTH: _____

SOCIAL SECURITY NUMBER: _____

HEIGHT: _____ WEIGHT: _____

SEX: _____ RACE: _____

HAIR: _____ EYES: _____

SCARS, TATTOOS, OTHER DISTINGUISHING MARKS: _____

FBI NUMBER: _____

COMPLETE DESCRIPTION OF AUTO: _____

INVESTIGATIVE AGENCY AND ADDRESS: _____